

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

NIPPON SHINYAKU CO., LTD., a
Japanese company;

Plaintiff,

V.

SAREPTA THERAPEUTICS, INC., a
Delaware corporation

Defendant.

CIVIL ACTION NO. 21-1015 (LPS)

Public Version Filed September 24, 2021

**PLAINTIFF NIPPON SHINYAKU CO., LTD.'S
UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL**

Plaintiff Nippon Shinyaku Co., Ltd. (“Nippon Shinyaku” or “Plaintiff”), by and through its undersigned attorney, hereby moves the Court for an Order permitting it to file the instant Motion to Seal, its First Amended Complaint, and exhibits thereto under seal. Counsel for defendant Sarepta Therapeutics, Inc. (“Sarepta” or “Defendant”) has represented that Sarepta does not oppose the instant motion to seal. The grounds for this motion are as follows:

1. The instant action arises out of, in part,

Plaintiff and Defendant. Sarepta's alleged

forms the basis for Nippon Shinyaku's [REDACTED] claim in its

operative Complaint.

2.

[REDACTED] See D.I. 1-2, §§ 1, 2.4.

3. The First Amended Complaint [REDACTED]
[REDACTED]

4. Although Nippon Shinyaku [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

5. This Court has the “inherent equitable power to grant confidentiality orders.” *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 785-86 (3d Cir. 1994). While there is a “presumption in favor of public accessibility,” the Court has authority to seal documents “when justice so requires,” provided the party requesting sealing demonstrates that the “interest in secrecy outweighs the presumption” of access. *In re Motions for Access of Garlock Sealing Techs. LLC*, 488 B.R. 281, 299–300 (D. Del. 2013) (quoting *LEAP Sys., Inc. v. MoneyTrax, Inc.*, 638 F.3d 216, 221–22 (3d Cir. 2011)). Thus, “courts may deny access to judicial records, for example, where they are sources of business information that might harm a litigant’s competitive standing.” *Littlejohn v. Bic Corp.*, 851 F.2d 673, 678 (3d Cir. 1988) (citing *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 598 (1978)); see also Fed. R. Civ. P. 26(c)(1)(G) (identifying “confidential . . . commercial information” as one category of information that can be protected via court order); see also *Mylan Inc. v. SmithKline Beecham Corp.*, 723 F.3d 413, 415 n.3 (3d Cir. 2013) (finding good cause to seal documents “to protect the parties’ confidential proprietary business and competitive interests”). Where a party relies on assurances of confidentiality in entering into an agreement, that party has a privacy interest preventing disclosure of its non-

public, confidential business and financial information. *See LEAP Sys.*, 638 F.3d at 222.

6. In the instant action, permitting Nippon Shinyaku to file the instant Motion to Seal, First Amended Complaint and exhibits thereto under seal will preserve the status quo with respect to [REDACTED]

[REDACTED]. [REDACTED] outweigh any presumption or interest that may exist in favor of public access to [REDACTED]

WHEREFORE, Nippon Shinyaku respectfully requests that the Court issue an order permitting Nippon Shinyaku to file the instant Motion to Seal, its First Amended Complaint, and exhibits thereto under seal and for these documents to remain under seal, with redacted versions to be filed in accordance with the D. Del. Local Rules.

Dated: September 10, 2021

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Amanda S. Williamson (admitted *pro hac vice*)
Christopher J. Betti (admitted *pro hac vice*)
Krista V. Venegas (to be admitted *pro hac vice*)
Maria E. Doukas (admitted *pro hac vice*)
Michael T. Sikora (admitted *pro hac vice*)
110 N. Wacker Drive, Ste. 2800
Chicago, IL 60601
Telephone: 312.324.1000
Fax: 312.324.1001
amanda.williamson@morganlewis.com
christopher.betti@morganlewis.com
krista.venegas@morganlewis.com
maria.doukas@morganlewis.com
michael.sikora@morganlewis.com

/s/Amy M. Dudash
Amy M. Dudash (DE Bar No. 5741)
1201 N. Market Street, Suite 2201
Wilmington, Delaware 19801
Telephone: 302.574.3000
Fax: 302.574.3001
amy.dudash@morganlewis.com

*Attorneys for Plaintiff Nippon
Shinyaku Co., Ltd.*